

Caption in Compliance with D.N.J. LBR 9004-1(b)

Ronald I. LeVine  
210 River Street Ste. 11  
Hackensack, NJ 07601  
201 489-7900

In Re:

RUBIER J. BETANCOURT

Case No.: 16-20518SLM

Judge: Meisel

Chapter: 13

### CHAPTER 13 DEBTOR'S CERTIFICATION IN OPPOSITION

The debtor in this case opposes the following (choose one):

1. ☐ Motion for Relief from the Automatic Stay filed by \_\_\_\_\_, creditor,

A hearing has been scheduled for \_\_\_\_\_, at \_\_\_\_\_.

- ☐ Motion to Dismiss filed by the Chapter 13 Trustee.

A hearing has been scheduled for \_\_\_\_\_, at \_\_\_\_\_.

- ☐ Certification of Default filed by \_\_\_\_\_,

I am requesting a hearing be scheduled on this matter.

2. I oppose the above matter for the following reasons (choose one):

☒ Payments have been made in the amount of \$ 5,815., but have not been accounted for. Documentation in support is attached.

☒ Payments have not been made for the following reasons and debtor proposes

repayment as follows (**explain your answer**):

Attached as Exhibit A is my accountants breakdown of the payment history which is based on his calculations from the terms of the September 30, 2016 consent order that required Kira to reduce the monthly escrow payment for insurance which had been based on a forced place insurance that shows on Kira's POC at an annual payment of \$13,229.15. (Exhibit B). Attached as Exhibit C is

☒ Other (**explain your answer**):

Declaration page for premium effective 4/7/16 with annual payment of \$4,183. Kira's accounting which does not incorporate this reduction and therefore has charged debtor with an extra 323.80 a month for the past 38 months. The actual monthly payment is not \$6,128, but \$5,815 and therefore with the forementioned adjustment am fully current. Consent Order is attached as exhibit D.

3. This certification is being made in an effort to resolve the issues raised in the certification of default or motion.
4. I certify under penalty of perjury that the above is true.

Date: November 21, 2019



/s/Rubier Betancourt

Debtor's Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Debtor's Signature

**NOTES:**

1. Under D.N.J. LBR 4001-1(b)(1), this form must be filed with the court and served on the Chapter 13 Trustee and creditor, if applicable not later than 7 days before the date of the hearing if filed in opposition to a Motion for Relief from the Automatic Stay or Chapter 13 Trustee's Motion to Dismiss.
2. Under D.N.J. 4001-1 (b)(2), this form must be filed with the court and served on the Chapter 13 Trustee and creditor, if applicable not later than 14 days after the filing of a Certification of Default.

RELOX SERVICE Co  
555 Gorge Rd  
Cliffside Park NJ 07010  
(201)888-4568  
Zorrilla55.rl@gmail.com

**KIRA DEVELOPMENT / RUBIER BETANCOURT****PAYMENT NOTE ANALYSIS****PROPIEDAD 6325- 6327 KENNEDY BLVD**

NORTH BERGEN NEW JERSEY USA

TOTAL AMOUNT OF ARREARS \$ 95,203.47

see proof of claim rider of itemization from KIRA

**THIS AMOUNT INCLUDED ADVANCES FOR**

advances for taxes	\$ 21,675.61	** see proof of claim by Kira
advances for insurance	\$ 13,229.15	**see proof of claim by Kira (a)
this amount is wrong see real insurance policy charge from KIRA		change on 4/1/2016 to \$ 4,183.00 actual
PAYMENT PLAN START JUNE 2016	\$ 8,200.00	

regular payment	\$ 6,128.00	
arrears payment	\$ 2,072.00	*** payments 38 = \$ 78,736.00 (b)
total	\$ 8,200.00	

P&I	\$ 3,631.94	
real estate taxes	\$ 1,889.10	annual taxes (22,669.20) see Kira analysis
insurance	\$ 283.16	annual ins ( 3,397.92) see Kira dcts
total	\$ 5,804.20	
extra payment	\$ 323.80	*** paymemts 38 = \$ 12,304.40 (c)
total	\$ 6,128.00	

scrow insurance advance reduction	\$ 9,046.15	(a)
*** payments 38 = \$ 78,736.00		(b)
*** paymemts 38 = \$ 12,304.40		(c)

total arrears paid until July 2019	\$ 100,086.55
total claim by Kira arrears	\$ 95,203.47

balance in favor Mr Betancourt	\$ 4,883.08	
august 2019 payment	<u>\$948.92</u>	
total	\$ 5,832.00	monthly payment extra \$ 17.00
		real actual monthly payment after paid arrears
sept 2019 payment	\$ 5,815.00	
oct 2019 payment	\$ 5,815.00	
Noiv 2019 payment	\$ 5,815.00	

Relox Service Co.

**EXHIBIT****A**

**PROOF OF CLAIM**  
**RIDER OF ITEMIZATION**

Debtors(s): Rubier J. Betancourt  
Secured Property Address: 6325-6327 Kennedy Boulevard, North Bergen, NJ 07047  
Loan Date: March 29, 2007  
Original Principal Amount: \$550,000.00  
Current Principal Balance: \$524,476.38  
Interest Rate: 6.250%

1. Delinquency/Arrearage as of May 31, 2016:

Interest from 5/1/15 to 5/31/16: \$ 36,146.85  
Late Charges: \$ 1,979.44  
Escrow shortage: \$ 808.07  
Advances for Insurance: ~~\$ 13,229.15~~ \* \$ 4,183.<sup>00</sup>  
Advances for Taxes: \$ 21,675.61  
Appraisal fee: \$ 2,250.00

2. Legal Fees and Costs:

Fees \$17,255.88  
Costs \$ 1,858.47  
Travel: \$ 54.35  
Search fees: \$ 231.25  
Filing/recording fees: \$ 560.00  
State Capital review fees: \$ 425.00  
Service of Process: \$ 329.75  
Postage: \$ 167.12  
Photocopies \$ 91.00  
\$1,858.47

4. Total Amount of Arrears:

5. Total Amount of Claim:

\$ 95,203.47 - 9.046<sup>15</sup> = 86157.<sup>32</sup>  
\$619,679.85

**EXHIBIT**  
**B**

\* ADVANCE  
THE INSURANCE WAS  
WRONG AMOUNT  
THE REAL AMOUNT IS \$ 4,183.<sup>00</sup>

(800) 924 71

### COMMON POLICY DECLARATIONS

This Declaration Page is attached to and forms part of certificate provisions.

Previous No. \* New \* Authority Ref. No(s):  
Certificate No. ARS141605 Percentage(s): See Attached Schedule (SCHP)

1. Name and address of the Assured **KIRA DEVELOPMENT, LLC** Broker  
PO BOX 403 **CAPACITY COVERAGE COMPANY (000043)**  
SHORT HILLS NJ 07078 **ONE INTERNATIONAL BOULEVARD**  
**MAHWAH NJ 07495**

Business description: **APARTMENT/MERCANTILE BUILDING**

2. Effective from **04/07/16** to **04/07/17** both days at 12:01 a.m. standard time

3. Insurance is effective with **Underwriters at Lloyds, London**

Percentage  
**100%**

4. This Certificate consists of the following Coverage Parts for which a Premium is indicated.  
This Premium may be subject to adjustment

	Premium
Commercial Property Coverage Part	\$ 2,475
Commercial General Liability Coverage Part	\$ 1,708
Commercial Inland Marine Coverage Part	\$ N/A
Motor Truck Cargo Coverage Part	\$ N/A
Commercial Crime Coverage Part	\$
Auto Physical Damage Coverage Part	\$ N/A
Garage / Dealers Coverage Part:	\$ N/A
Terrorism Coverage Part:	\$ 0
Trailer Interchange Coverage Part:	\$ N/A
<b>TOTAL:</b>	<b>\$ 4,183</b>

This policy is written by surplus lines insurer and is not subject to the filing or approval requirements of the New Jersey Department of Banking and Insurance. Such a policy may contain conditions, limitations, exclusions and different terms than a policy issued by an insurer granted a Certificate of Authority by the New Jersey Department of Banking and Insurance. The insurer has been approved by the Department as an eligible surplus lines insurer, but the policy is not covered by the New Jersey Insurance Guaranty Fund, and only a policy of medical malpractice liability insurance as defined in N.J.S.A. 17:30D-3d or a policy of property insurance covering owner-occupied dwellings of less than four dwelling units are covered by the New Jersey Surplus Lines Guaranty Fund.  
SLA#: 01212-16-00203  
Originating Broker: Capacity Coverage Company of NJ

5. Forms Applicable to all Coverage:  
Parts: **\*\* See Schedule SCH-F Attached \*\***

6. Service of Suit may be made upon:

In return for the Payment of the premium, and subject to all the terms of this Certificate, we agree to provide the insurance as stated in this certificate.

Dated: **04/11/16**

by: 

Correspondent: **Atlantic Risk Specialists, Inc.**  
**One International Blvd.**  
**Suite 350**  
**Mahwah, NJ 07495**

**EXHIBIT**  
**C**



Order Filed on September 30,  
2016 by Clerk, U.S. Bankruptcy  
Court - District of New Jersey

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR 9004-2(c)**

Ronald I. LeVine, Esq.  
210 River Street, Suite 24  
Hackensack, New Jersey 07601  
Attorney for Debtors  
RL9395

In Re:

RUBIER J. BETANCOURT

Case No.: 16-20518SLM

Chapter: 13

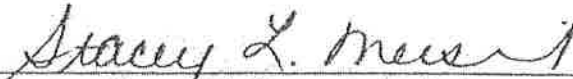
Hearing Date:

Judge: Meisel

**AMENDED CONSENT ORDER REGARDING ASSIGNMENT OF RENTS AND CURING  
OF SECURED CREDITOR'S PRE-PETITION ARREARS AND POST PETITION REGULAR  
PAYMENTS OUTSIDE THE PLAN THROUGH CREDIT FOR THOSE ASSIGNED RENTS**

The relief set forth on the following pages, numbered two (2) through five (5) is  
hereby **ORDERED**.

**DATED: September 30, 2016**

  
Honorable Stacey L. Meisel  
United States Bankruptcy Judge

**EXHIBIT**

**D**

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Debtor: RUBIER J. BETANCOURT

Case No. 16-20518SLM

Caption of Order: AMENDED CONSENT ORDER REGARDING ASSIGNMENT OF RENTS AND CURING OF SECURED CREDITOR'S PRE-PETITION ARREARS AND POST PETITION REGULAR PAYMENTS OUTSIDE THE PLAN THROUGH CREDIT FOR THOSE ASSIGNED RENTS

**THIS MATTER** being opened to the Court by Ronald I. LeVine, Esq., attorney for debtor in a Chapter 13 that seeks to cure the mortgage arrears on debtor's mixed use property located at 6325 Kennedy Blvd. North Bergen, NJ, , on which the secured creditor Kira Development LLC ("Kira's) is the beneficiary of an assignment of rents for that property, and for which the presently assigned rents total \$8,200.00 per month, and the parties having reached an agreement as to the use of those rental proceeds in addressing Kira's pre-petition arrears that is agreed to be \$95,203.47 based upon the filed proof of claim of Kira, and for good cause shown;

**IT IS ORDERED** that:

1. The presently filed Chapter 13 Plan that provides in Part 1(e) that all the assigned rents of \$8,200.00 shall be used to meet the ongoing regular monthly mortgage obligation of the debtor to Kira of \$6,128.00, with the balance to be applied to the pre-petition arrears, is agreeable to Kira, and they waive their right to object to the plan confirmation provided the debtor is not in breach of its obligations under this Consent Order.
2. It shall be the debtor's obligation to continue collecting the tenants' rents as the agent for Kira, and to turn over those rental proceeds to Kira. The debtor shall take all reasonable steps to have his tenant's rent checks made payable to Kira so as to avoid the delay in waiting for checks to clear debtor's account before being

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Debtor: RUBIER J. BETANCOURT

Case No. 16-20518SLM

Caption of Order: AMENDED CONSENT ORDER REGARDING ASSIGNMENT OF RENTS AND CURING OF SECURED CREDITOR'S PRE-PETITION ARREARS AND POST PETITION REGULAR PAYMENTS OUTSIDE THE PLAN THROUGH CREDIT FOR THOSE ASSIGNED RENTS

paid over to Kira.

3. It is further understood that while these monthly assigned lease obligations are due on the first of the month, tenants are often paying the rent between the 5<sup>th</sup> and the 10<sup>th</sup> of any given month. For that reason there shall be a 15 day grace period, so that debtor will not be in default under the terms of this consent order unless the monthly payment for any given month is not made by the 15<sup>th</sup> of that month.
4. It is further understood by the parties that the present monthly regular mortgage payment amount of \$6,128.00 is based on a forced place insurance policy costing approximately \$9,000.00 annually, which is about \$5,000.00 greater than a non-forced place policy would cost. Upon debtor's presentation of proof of insurance with Kira named as an insured party, the forced place insurance will be immediately cancelled and any pro-rated refund will be factored in in reducing the newly calculated mortgage payment with an estimated savings of approximately \$750.00 a month. With proof of the payment of premium, the monthly payment to Kira will no longer escrow for insurance. It will be debtors obligation to produce renewal statements showing the continuance of insurance ob the property.
5. It is further understood by the parties that debtor's commitment period for his



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Caption of Order: AMENDED CONSENT ORDER REGARDING ASSIGNMENT OF RENTS AND CURING OF SECURED CREDITOR'S PRE-PETITION ARREARS AND POST PETITION REGULAR PAYMENTS OUTSIDE THE PLAN THROUGH CREDIT FOR THOSE ASSIGNED RENTS

a timely manner so as not to threaten the feasibility of the consent order terms. The parties do agree that the debtor shall not be confined to a 36 month plan period, and may, if necessary expand the plan period to the fully 60 months allowed by the Bankruptcy Code. In the event the payment of less than \$8,200.00 but at least the regular monthly mortgage payment is made, Kira may file a default application with notice after more than two consecutive monthly payments have been made of less than \$8,200.00, provided that at least the regular mortgage payment was made for each month. The foregoing paragraph shall no longer be operable if under its terms Kira has filed two default applications.

8. Subject to the restrictions in paragraph 7 above, in the event of default in the monthly payments due under this Order, Kira may file a certification of default with the court upon notice to debtor and debtor's counsel, to which the debtor may duly respond to resolve the default.

9. The debtor waives any objection to the proof of claim filed by Kira.

We consent to the form and entry hereof.

/s/ Mark Greene

Mark Greene, Esq.

Attorney for Kira Development, LLC

/s/ Robert Wachtel

Robert Wachtel, Esq.

Law Office of Ronald I. LeVine

Attorney for Debtor